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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------------|
| 10/520,936 | 12/19/2005 | Peter Moeller-Jensen | 2002010-US | 4770 |
| 69289 | 7590 | 11/29/2007 | | |
| COLOPLAST CORP. I.P. DEPARTMENT, U.S. OPERATIONS P.O. BOX 580800 MINNEAPOLIS, MN 55456-0800 | | | EXAMINER SCHELL, LAURA C | |
| | | | ART UNIT 3767 | PAPER NUMBER |
| | | | MAIL DATE 11/29/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/520,936 | Applicant(s) MOELLER-JENSEN ET AL. | |
| | Examiner Laura C. Schell | Art Unit 3767 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,6-20 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,6-20,23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 6, 7, 8, 10, 13, 16, 18, 20, 23, 24 and 25, and consequently all dependent claims, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to all the independent claims (3, 6, 7, 13, 23-25), it is unclear to the examiner where the gas that is being pumped into the reservoir is coming from. Is the gas taken in from the surrounding environment or is it coming from a source? Also, what is the source of gas for inflating the fixation member?

Claims 8, 10, 16 and 18 recite the limitation "the periphery" in lines 8, 10, 12 and 16 in claim 8; line 3 in claim 10; lines 4-5 in claim 16; lines 5 and 11 for claim 18. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "the first position" in line 10 and the limitation "the second position" in line 11. There is insufficient antecedent basis for this limitation in the claim.

In reference to claim 13, the phrasing in the last two lines "at least irrigating liquid conducting tubes connecting the control unit with the probe and the reservoir unit,

respectively being connected with the accommodating element" is unclear. It seems as though the phrase might be missing "the" somewhere.

In reference to claim 25, the phrase in the last two lines is unclear as to what it means. "said tubes may be individually compressed to a fluid tight position" is unclear in that it is not clear how or why the tubes are compressed, and what "a fluid tight position" implies. Does a fluid tight position mean that they are compressed such that they block flow through them?

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sanese (US Patent No. 5,368,569); Abell et al. (US Patent No. 6,106,506); Abell et al. (US Patent No. 5,405,319); Falconer (US 2003/0073974); Alexandersen (US Patent No. 6,468,245); Miller (US 4,386,607); Greene (US 3889676).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LCS

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KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons